

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 18 CR 278
v.)	
)	
ERNESTO GODINEZ)	

Motion *In Limine* to Bar Ballistic Evidence

Now Comes the Defendant, ERNESTO GODINEZ, by his attorneys Lawrence H. Hyman and Gal Pissetzky, and moves this Honorable Court to bar ballistic evidence and expert testimony of Arnold Esposito, and in support thereof, states as follows:

The issues at this trial will involve whether Mr. Godinez shot an undercover ATF Agent. No gun was ever recovered from the crime scene. No ballistic matches have been made to tie Mr. Godinez to the alleged crime, or to use of a firearm that purportedly was used to shoot the AFT Agent.

A confusing assortment of cartridge casings and bullets were recovered from the area where the agent was shot. The government cannot match up any spent cartridges to the bullets, and cannot identify the model and caliber of the gun(s) from which these cartridges and bullets came, or even if they came from the same gun.¹ The only evidence the government does have is that the cartridges were all fired from one gun, and all the bullets were fired from one gun, but not that the cartridges and bullets were fired from the same gun. There is no evidence as to the make and model of the gun(s) used, or as to the date(s) either the fragments or cartridges were fired.

Therefore, the proposed use of the ballistic evidence, and by an expert on this evidence, should be barred pursuant to Federal Rules of Evidence 401 and 403.

¹ Arnold Esposito concluded that Government Exhibit 4 fired bullet could have been fired from one of no less than forty-nine makes and models of guns.

Respectfully submitted,

/s/ Lawrence H. Hyman

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CERTIFICATE OF SERVICE

The undersigned, Gal Pissetzky, hereby certifies that in accordance with Fed.R.Crim.P. 49, Fed.R.Civ.P. 5, and the General Order on Electronic Case Filing (ECF), the Motion *In Limine* to Bar Ballistic Evidence was served on May 13, 2019 pursuant to the district court's ECF filers to the following:

To: AUSA Kavitha J. Babu
AUSA Nicholas J. Eichenseer
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Respectfully submitted,

/s/ Gal Pissetzky
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